

# REPORT AND RECOMMENDATIONS OF CONCORD COMMUNITY FORUM, COMMITTEE ON LOCAL GOVERNMENT REFORM

*Elect. Munic. Concord  
Munic. Gov't*

This Committee was formed pursuant to one of the major resolutions emerging from the Citizen Participation Workshop of the Concord Community Forum of 1972. Stephan C. Williams, the attorney for the Workshop, was selected by Ms. Pat Howlett as the Chairman of the Study Committee on Local Government Reform.

The Committee underwent several name changes, and the name finally selected by the Committee for itself accurately reflects the broad scope of the Committee's concern and study.

The Committee met from October 16, 1973, to about May 1, 1974.

## MEMBERSHIP

In keeping with the Citizens' Participation Workshop theme, recruitment for Committee members was broadly based. Any member of the public having interest in the Committee's purpose was invited to share in the Committee's work. Invitation to members of the public to be part of the Committee was advertised through the media, both the press and the local radio station, KWUN. Additional members were taken into the Committee from those persons at the 1973 Community Forum who expressed an interest in the Committee's work. Several of the Councilmen were also requested by the Chairman to submit the names of persons who might be either interested in the Committee or by experience or background be able to add to the Committee's study.

Attached to this report as Exhibit "A" are the names of those persons who formed the Committee.

The Chairman of the Committee would like to give special recognition to those members of the Committee who accepted a major role in the Committee's work by attending an above average number of Committee meetings and by contributing to some aspect of this report. Special thanks are given to Rollie Katz, Dwight E. Silver, Leland Pulley, Carl Harper, Jackie Wagner, Pat Henry, Stu Safine.

## STAFF SUPPORT

Facilities at the City Hall were provided to the Committee for its meetings. The Committee was also assisted by Ed Schilling of the City's professional staff who, unfortunately, through no fault of his own, could only spend a very limited time with the Committee. Schilling's assistance consisted primarily of advising members of meeting dates.

The City staff also provided most of the typing required in the Committee's work including the typing of this report and recommendation. The Committee would have been capable of making a more exhaustive study of its subject matter had there been provided, on at least part-time basis, the assistance of a paid City staff person.

It is the Committee's feeling that citizens' committees formed for City business should receive more support in terms of staff than is presently the case. A Committee such as this one finds itself severely handicapped without the assistance of a staff person to do research and to follow up on proposals and suggestions.

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## SOURCES

Before the Committee was formed an attempt was made to solicit help in the form of a graduate student or students from the Graduate School of Public Administration and Political Science at the University of California. Several of the professors at said graduate schools were contacted and asked if one of their students might be interested in working along with the Committee. Although the professors contacted at the University of California were encouraging, no assistance came in the form of a graduate student or students.

In an attempt to obtain background data on the subjects in which the Committee was interested, a member of the Committee did extensive research at various libraries in the area. Unfortunately, very little was found to exist in the academic world or in writing on district elections and its related issues (see Exhibit "B")

## AREAS OF STUDY

Although the charge to the Committee was to study the feasibility of District Elections for the City of Concord, it became apparent early in the Committee's discussions that the real issue was a much broader one, that is, election reform. The Committee early addressed itself to the question of how a suburban city government could be more responsive to the electorate. Was there a way in which a city government could be structured, particularly the elective offices, which would because of its form be more representative of all the people in the Community?

Given below are some of the features of the city's present elective office structure which the Committee viewed as closed or nonresponsive to the people in the Community:

1. The policy decision-making process in the hands of a very few;
2. The present method of selecting the city's Mayor does not necessarily reflect the choice of the majority of the Community's voters.
3. The present size of the Council (five members) and the manner in which Council-persons are elected, provides little opportunity for input by strong minorities in the Community.
4. Council-persons running for election in a city of almost 100,000 find that election to City Council requires campaign expenditures of over \$5,000. Candidates for Council seats necessarily have to solicit funds from special interest groups to assure election. This method of campaign financing leaves much to be desired.
5. Until quite recently there was a lack of broad citizen input in City government. In the past when committees of citizens were formed for one task or another, the same persons or groups in the Community were recruited for membership. The Committee believes that this has led to frustration and apathy on those not called upon to participate in civic affairs. A noted exception to this pattern has been the formation of the Concord Community Forum which has made a serious and successful attempt to widen citizen participation in local government affairs.











## DISTRICT ELECTIONS

The major study project for the committee was district elections and the feasibility of enlarging the City Council. Both these issues are interrelated since you cannot have one without the other. That is to say, that the Council of a general law city cannot have a membership larger than five unless the Council persons are elected by districts (see legal opinion of City Attorney dated December 6, 1973 which is attached as Exhibit "C").

At the present time the Concord City Council consists of five persons, all of whom are elected at large in accordance with Government Code Section 36501 (see Exhibit "D").

It was the Committee's considered opinion that, although a five-person council might have been appropriate when Concord had a much smaller population, it is now inadequate to meet the needs of the community.

Concord is now approaching 100,000 people, and the Committee thought that the Council of a city the size of Concord should be large enough to reflect the diverse elements that make up the community's population.

At the present time the at-large system of electing council persons has the effect of each council person being elected by the majority of the voters. A candidate for election who does not represent the views of the majority in the community cannot be elected under the present system. The Committee was of the opinion that city government would be more responsive if the Council included members who, although not of the majority, did reflect the views of a significant minority in the community.

Another major detriment of the present system of electing five council persons at large is the fact that special interest groups tend to play a major role in the elections. In order for a council person to be elected in a city having a population in excess of 90,000, the candidate in most cases, must raise and spend in excess of \$5,000.00. Traditionally, funds for a City Council election have come from those in the community who have had a financial stake in decisions made by the City Council.

Objectivity and impartiality in a council person's decision making becomes compromised when he owes his position to special interest groups in the community.

### An alternative to the present system of at-large elections

It is now possible for a general law city such as Concord to elect its council persons by district and, at the same time, enlarge its Council up to nine members (see Government Code Section 34,870 et seq.). Several general law cities in California already use this system to elect their councilpersons, e.g., the cities of Bradbury, Ripon, and Santa Fe Springs.

The law provides for the election of councilpersons by or from districts if the voters approve of an ordinance so providing. One method of districting is to provide in the enabling ordinance that the councilperson reside in a particular district but is elected by the voters at large after a primary election within the district. Under such a method, a councilperson would first have to be acceptable to the voters in his district and then to the electorate in the entire city. San Diego has such a system. This is referred to as election from district.

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### Election by district

The second method of district election is that of election by district. Under this system a councilperson must reside in the district and be elected by the voters in that particular district.

### The Merits of the district approach

The Committee did not believe that there was any particular advantage to adopting the from district type of electing councilpersons. Since the Councilperson would need to be elected by the voters of the entire city, this system of electing councilpersons would not eliminate the need for relatively large sums of money to finance a campaign for City Council.

The by-district method of choosing councilpersons offers the advantage to those seeking election to the Council to achieve success with a minimum expenditure of funds. This would tend to minimize the impact of special interest groups in the outcome of a city council election. If the city were divided into nine districts, each of the districts would be small enough to permit the candidates to walk his district and to meet the voters in his district with little or no campaign spending. Since the candidate would reside in his district, he would be very familiar with the needs and the concerns of his district. An additional advantage to the by-district approach is that every area of the city is assured of a representative. Occasionally, in the past, the majority of the Council in Concord have come from one relatively small geographical area of the city.

Some of the disadvantages of the by-district approach are furnished below:

- (1) There would be a tendency for each councilperson to do something for his district in order to be elected. In order for a councilperson to obtain benefits for his district to raise as issues at the next election, it might be necessary for him to recognize the same problems for each of the other councilpersons. Such considerations lead to "logrolling."
- (2) The possibility of more than one qualified person being elected from any given district within the city is precluded.
- (3) Districts tend to divide a city for more than election purposes. Administrative, as well as political decisions, are influenced by the district division, and each district tends to become an entity unto itself. Programs which would tend to help the city as a whole take second priority in deference to those which benefit special interest and minor segments of the community.

Advantages of the present system of electing at large:

- (1) Councilmen more apt to represent the interests of the entire city;
- (2) Best qualified people may be elected even though they may all reside in one section of the city.

After a careful comparison of all the advantages and disadvantages of the present at-large system with a by-district method of electing, the Committee recommends that the Council adopt an ordinance providing for a by-district election with an enlargement of the Council to nine members. The advantage of greatly minimizing the impact of special interest groups in elections and city affairs outweigh the few drawbacks associated with a district election. Additionally, the enlargement of the Council to nine members will make it possible for significant minorities in the community to have a voice in the government, thereby mitigating frustration and dissent in the community and increasing stability and order.



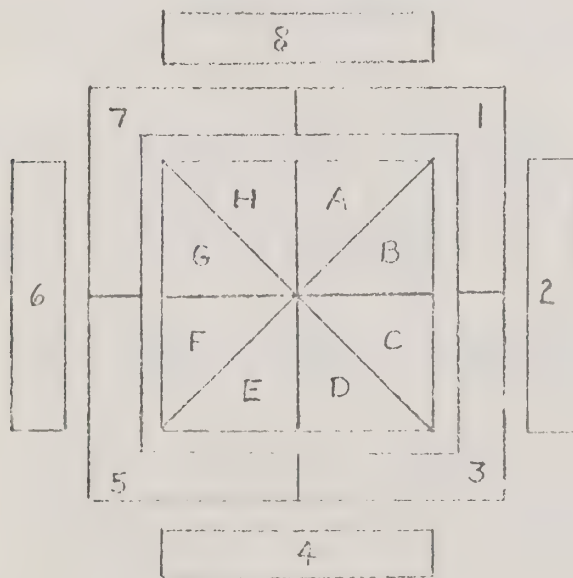


## MODIFIED DISTRICT REPRESENTATIVES

Classic district election methods divide a geographic area into separate, nearly equal by population districts, equal to the number of elected offices. Each elector has one representative, which is responsible to only one district. We offer the Modified District Representative system as an alternative to a class district election.

A Modified District Representative system provides that, although make-up of districts does not change, each elector has two representatives answerable to him at the election box. Conversely, the representative has responsibility toward two areas, not just one which may be unique within the community.

A Modified District Representative system is developed by dividing the community into equal areas by population. Two adjacent areas constitute a district. The number of areas equals the number of seats to be elected by district. Each council member will represent two adjacent areas. Thus, for a council composed of eight council persons elected by district, a typical design would be according to the following illustration.



LETTERS INDICATE  
GEOGRAPHIC AREAS.

NUMBERS INDICATE  
REPRESENTATIVE  
COVERAGE

Thus:

<u>Area</u>	<u>Represented by</u>	<u>Representative</u>	<u>Serves</u>
A	8 & 1	1	A & B
B	1 & 2	2	B & C
C	2 & 3	3	C & D
D	3 & 4	4	D & E
E	4 & 5	5	E & F
F	5 & 6	6	F & G
G	6 & 7	7	G & H
H	7 & 8	8	H & A





In order to provide an odd number of council persons, one council person is elected at large to serve as mayor or, if in the case of county government, the chairman of the board of supervisors.

Using the Modified District Representative system, a city government may have the advantage of district-elected members and the latitude of at-large elected members. The tendency toward "log rolling," inherent within classic district representation, is lessened because a council person has the interests of more than one district to represent. Those districts are also represented by two other council persons.

The Modified District Representative system adheres to the principle of one man, one vote. Moreover, when a council is elected on staggered terms, each elector has the opportunity at each election to influence the composition of the council.

The Modified District Representative system appears to be a unique plan for municipal government. Research indicates that no community in California uses such a plan, nor has a similar plan been considered by any municipal government. A review of the current government statutes shows that this plan may not meet the criteria of equal districts as required by statutes relating to district elections.

We recommend that the City Attorney investigate whether such a plan would be acceptable under the current statutes of California. Should the council believe that the plan is best for the public interest, yet the laws prevent its use, two remedies are available which this committee supports:

1. Propose a simple city charter for adoption by the electors. The charter would establish a city council of nine members elected according to the plan.
2. Seek legislative change of the laws, particularly paragraphs 34872 and 34891, to provide for an elective mayor and 4, 6 or 8 council persons, and to provide for district representation and an at-large-elected mayor.

Although the Modified District Representative system is somewhat complex and may initially tend to confuse the public, a good representation of the plan by the council would, in the opinion of the Committee, lead to it being understood and accepted.





## ELECTED MAYOR

Paragraph 34900 of the Government Code provides that the City Council may submit to the electors the question of whether electors shall thereafter elect a mayor, and if so passed, whether the mayor shall serve a two-year or four-year term.

Currently, 23 general law cities have an elected mayor. In the immediate area, Antioch and Union City elect mayors. See the appended letter from the League of California Cities for a complete list.

In Antioch, during the past several years, the subject of an elected mayor had been discussed by the City Council. Two years ago the measure was put on the ballot and subsequently passed, the electors also choosing to have a four-year term. During the recent election, while electing a mayor for the first time, the electors passed a measure to change the mayor's term to two years. Thus, in 1978, the candidates for mayor will be seeking a two-year term as mayor. According to the City Manager of Antioch, the argument for the two-year term was that one-half of the Council would be able to run for mayor as "free ride" candidates while the other half of the council would always have to choose whether to run for re-election as general council persons or to run for the specific seat of mayor. In the future, the "free ride" is equally available to council persons. The choice of a race also remains.

The advantage of having an elected mayor is that he is the direct choice of the citizenry rather than the product of politics played within the City Council structure. Since the deliberations leading to the appointment of a mayor are not covered by the "Brown Act," the public is not privy to the reasons why a person is appointed mayor and even for whom each council person voted.

A further advantage of electing a mayor is the power of the council to provide compensation to the mayor in addition to that which the mayor receives as a council person.

The Committee noted that there appears to be an irreconcilable conflict between the statutes providing for elective mayor and those which relate to district elections. The lawyers on the Committee were of the opinion that a general law city, under the present statutes, can either have an elective mayor or council persons elected from districts, but not both. This is because the statutes providing for district elections state that each district must be of equal size.

The position of this Committee is that the selection of a mayor by the electors is desirable if it is compatible with increasing the size of the council and with the election of members of the council by districts. Given a choice of either an elected mayor or an enlarged council by districts, but not both, we believe election of a larger council by district is more responsive to the public needs than an elected office of mayor.





## CAMPAIGN FINANCING

The subject of the financing of city council campaigns was discussed at length by the committee. The committee voiced its strong agreement with the California legislative intent as expressed in Election Code, Section 11501. Said section reads in part as follows:

- (a) The people have a right to expect from their elected representatives at all levels of government assurances of the utmost in integrity, honesty, and fairness in their dealings;
- (b) The people further have a right, in order to knowledgeably vote for both candidates measures, to a true and timely disclosure of the identity of financial backers and the extent of their financial support;

The committee found that elections of city council candidates are financed, to a large extent, by special interests in the community, primarily business and labor groups. As in most contests for public office, interest in the outcome of the elections runs higher in those groups and persons who have frequent contact with the city. Many of these contacts with the city relate to the expenditure of city funds e.g., chamber of commerce funding and salaries paid to city workers. Contact by other groups and persons may not relate to the use of city funds but the obtaining of some type of approval from city government e.g., land use.

The committee was cognizant of the fact that there may be other reasons why citizens and groups in the community lend financial support to candidates in city elections. For example, although elections of city councilmen are non-partisan, it sometimes occurs that persons or groups contribute to the campaign of a particular candidate because of his political party affiliations.

It was also recognized by the committee that a fair portion of the small contributions made to candidates for city council are motivated by a kinship relationship or by the friendship of the contributor to the candidate.

The committee did not appear to be overly concerned about contributions that were less than \$50.00. The committee felt that contributions in excess of \$50.00, unless resulting from kinship or friendship, were a matter of real concern to the electorate.

The sum of \$200, or even \$100, might not be significant in a political contest for national or high state office, but, such sums contributed to a campaign of a city councilman are the proper subject of scrutiny and concern. The committee found that it was highly unlikely that such a sum would be contributed to the campaign of a councilperson unless there was expected by the contributor some sort of "real return" or "payoff".

For the above reasons, the committee concerned itself with the subject of campaign financing but it was noted early in its discussions that the state had probably pre-empted the field. In 1973 the legislature passed the Waxman-Dymally Campaign Disclosure Act which the committee found to be, in large measure, a successful approach to the problem.





Reference is made to the Elections Code Section 11500 through 11565. The application of the Waxman-Dymally Campaign Disclosure Act was felt for the first time in the City Council elections of 1974.

The committee voiced strong approval of the details of financing, both receipts and expenditures, which the Act requires. The committee also approved of the fact that campaign statements were required to be filed prior to the close of the election. This feature of the law makes it possible for citizens in the community to examine campaign statements of any candidate and determine where the financial support of the candidate has come from at the time of the filing of the statement.

Recognizing the fact that most citizens do not have the time to examine campaign statements, the committee felt that the media, particularly the local newspapers, should be encouraged to publish the details of these campaign statements as soon as they are received. Although some reporting on the campaign statements was made by some local newspapers, it was felt by the committee that the coverage could be improved and extended.

The committee noted that the present campaign financial disclosure law did not require a candidate or his committee to furnish the name, address, and occupation of contributors who made contributions of less than \$100. Furthermore, the present law does not restrict the amount of funds that a candidate can contribute to a campaign from his own pocket. Of more concern to the committee was the lack of penalties prescribed by the present law for violations of the disclosure act. The only penalty imposed by statute is the fine of \$25.00 for a committee which fails to file a statement of organization with the Secretary of State.



Immediately prior to this report being typed, Proposition 9, referred to as the Political Reform Initiative, was overwhelmingly passed by the voters of California.

Proposition 9, a copy of which is attached as Exhibit E, corrects what the committee thought were weaknesses in the Waxman-Dymally Act.

For example, the new law provides that there be reported on the campaign statements the full name, address and occupation of every person who contributes a total of \$50.00 or more.

Also, the new law provides that no contribution in excess of \$50.00 be made in cash, and that no person shall make an anonymous contribution totaling \$50.00 or more to a candidate.

The new law also greatly restricts the mass mailing by a candidate in that the postage has to be paid by postage meter or the mail sent by First Class or Third Class Bulk Rate Mail. This will prevent candidates from sending out campaign literature by the use of a postage rate reserved for non-profit groups.

One provision not covered in Proposition 9 or the Waxman-Dymally Act that the committee felt had merit was a provision of the San Diego Ordinance. The San Diego Ordinance (campaign contribution and expenditure control ordinance) limits the amount that a candidate can contribute to his own campaign so as not to exceed, with respect to a single election, the sum of \$2,500. For a city the size of Concord, it is suggested that the amount that a candidate can contribute to his own campaign be substantially less than \$2,500.

Proposition 9 also provides for an enforcement power not included in the Waxman-Dymally Act. Proposition 9 provides that a willful and knowing violation of the Act constitutes a misdemeanor with punishment conceivably being a fine of \$10,000 or three times the amount that the person failed to report, or properly unlawfully contributed, expended, gave, or received.





## THE USE OF "INCUMBENT" ON THE CITY BALLOT

Section 10219 of the Elections Code provides that an elected official may use the Incumbent label along side his name on the ballot.

Although it is generally conceded that the state has pre-empted this field, there is strong indication that Section 10219 of the Elections Code is unconstitutional. The use of the incumbency label has been challenged successfully in the Alameda County Superior Court in local elections for 1972, 1973, and 1974. The Court has held in each case that the State requirement is unconstitutional.

The use of the incumbent label by an elected official gives him a marked advantage over the challengers. The degree of advantage it gives the incumbent is not known, but it is believed to be at least 5 per cent.

The Committee was of the opinion and recommends to the City Council that the incumbent label should be removed from the ballot in the interest of responsiveness in government.

### Candidate's Position on the Ballot

Section 10202 of the Elections Code provides that incumbents will be listed first on the ballot and that they will be listed alphabetically. Section 10210 of the Elections Code provides that in the municipal elections, the names of candidates other than incumbents will be listed in alphabetical order on the ballot. The constitutionality of listing non-incumbents in alphabetical order has also been challenged and decided in favor of the challengers. In each of the cases brought in the trial court the decision has been rendered in favor of those challenging the alphabetic system.

It is strongly believed by Committee members that ballot position can gain or lose votes for a candidate. For example, the top or first ballot position is decidedly more advantageous to a candidate than lower ballot positions. It is noted that Concord has had some close elections in the past and that ballot position has probably been determinant in who won the election. Therefore, although ballot position may influence only a minority of voters, the number could be significant enough to affect the outcome of an election. The Committee proposes that the candidates for Concord City Council be listed alphabetically on the ballot. This listing could be rotated so that each candidate would have his name first on an equal number of ballots. If printing and distribution cost of the system are prohibitive, then a simple drawing could be held for ballot position.

The Committee recommendation was drafted before the passage of the Political Reform Initiative. Proposition 9 provides that the order of candidates on the ballot in every election shall be determined without regard to whether the candidate is an incumbent.





## FILLING OF VACANCIES

Section 36512.1 of the Government Code states that a city may enact an ordinance requiring a special election to be held to fill every city council vacancy, or requiring that a special election be held to fill a city council vacancy when petitions bearing a specified number of verified signatures are filed.

Section 36512.2 states that a city may enact an ordinance providing that a person appointed to fill a vacancy on the city council holds office only until the next regularly scheduled election for city council members, whereupon a special election shall be held to fill the vacancy for the remainder of the unexpired term.

At the present time, the City Council may appoint a person to fill an unexpired term on the council. This individual would remain in office until the term expired. If the council cannot decide upon an appointee within 30 days, a special election must be held to fill the vacancy.

In the past, unexpired terms have been filled through the use of both appointments and special elections. Special elections have occurred, not generally as the first choice of the council, but only because the four council persons remaining in office have deadlocked two to two.

In most cases the council has preferred to use the appointment process. Although well-qualified persons have emerged through the appointment process, it is the Committee's feeling that the citizens of Concord ought to elect all council persons rather than having persons appointed to that post. This is so, partially because no criteria for appointment have ever been established by the council, and also because the appointment hearings are not open to the public. Again, as in the case of an appointed mayor, these hearings are not required to be public by the "Brown Act." The Committee believes that greater citizen participation would result from special elections to fill vacancies, and the Committee believes that this benefit more than offsets the cost of such elections.

We recommend that the City Council pass the required ordinance to put Section 36512.1 into effect so that a special election, without the need for petitions, would be used to fill an unexpired term. Alternatively, we could recommend the enactment of Section 36512.2 requiring that an appointee serve only until the next regularly scheduled election.



## CHARTER CITY STATUS

As previously mentioned, Concord is a general law city and, as such, is governed by State statutes to a much larger degree than is a charter city.

As a general proposition, the main advantage of the charter form of government stems from the potential breadth of local authority which may be exercised. Charter cities are not restricted to the exercise of such powers as are set forth in the general law, although counteracting restrictions may be written into the charter. In contrast, general law cities have only those corporate powers which are granted expressly by statute or the constitution. One of the other advantages of a charter city is that it enjoys more flexibility in the choice of alternative forms of organization and methods of electing members of a legislative body.

At the present time there is only one general law city among the 19 cities having populations in excess of 100,000. Twenty-six of the forty-eight cities with populations from 50,000 to 100,000 are charter cities. It would appear, therefore, that Concord is somewhat unique in that it is a city approaching 100,000 but yet remains a general law city. (See League of California Cities publication "Charter or General Law City?" published in March, 1971.)

### Becoming a Charter City:

The method by which a general law city becomes a charter city is provided in Government Code Section 34450, et seq. Initially, a 15-member charter commission, or the city council itself, can propose a charter and submit it to the voters. The League of California Cities recommends the latter method. If the voters of the community approve the charter, it must then be approved by the State Legislature. A special election for the approval of a Concord charter could be held at the time of the election on the Central San issue.

### Committee's Concern With Charter Status:

The Committee's concern with charter status stems from the flexibility that a charter offers in the structure and size of the City Council, coupled with the possibility of electing a mayor. As previously mentioned, the election of a mayor and the election of council persons by districts are incompatible under the present laws governing general law cities. However, an elective mayor, coupled with district elections, is possible if Concord were a charter city. Furthermore, charter city status would also make possible the overlapping council districts with an elective mayor as more particularly outlined on pages 6 and 7 of this report.

### The One-Line Charter:

Since the establishment of charter city status can be complex and lengthy if it includes matters other than city council structure, it is the Committee's suggestion that the one-line charter approach





be studied for possible acceptance. Such a charter would limit itself to the enlargement of the council to nine persons and that the council persons be elected by district, or from overlapping districts. The charter would additionally provide for an elective mayor. In all other respects, the city would be governed as a general law city.

Committee's Recommendation:

Since the Committee desires both an elective mayor and the enlargement of the council, as well as elections by districts, it is strongly recommended that the city adopt a one-line charter to accomplish the desired goals.





SUMMARY OF COMMITTEE'S RECOMMENDATION  
AND ORDER OF PRIORITY

In its report the Committee has made recommendations involving various areas of campaign spending and city government structure. Given immediately below is the committee's recommendation as to the priority the city council should place relative to the recommendations contained in this report.

1. The adoption of a one-line city charter which provides for:
  - (a) A 9-member council;
  - (b) Overlapping districts;
  - (c) Elective mayor;
  - (d) Elections by district.
2. The adoption of an ordinance providing for district elections and the establishment of nine districts.
3. The adoption of an ordinance providing for an elective mayor.
4. The elimination of the incumbent label on the city ballot.
5. The rotation of candidates on city ballot to eliminate the listing of candidates on each ballot in alphabetical form.
6. The filling of all city council vacancies by election rather than by appointment.



10/30/73

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City of Concord

OFFICE OF CITY ATTORNEY

December 6, 1973

## CITY COUNCIL

Daniel C. Helix, Mayor  
 Laurence B. Azevedo  
 Richard L. Holmes  
 Thomas J. Wentling  
 Richard T. La Pointe  
 Farrel A. Stewart, City Manager

Honorable Mayor  
 and City Councilmen  
 City Hall  
 Concord, California

RE: Request for Legal Opinion  
 Expansion of Council Membership

Gentlemen:

You have requested that we reply to the inquiry of Attorney Stephan C. Williams, acting as Chairman of the Concord Community Forum sponsored Study Committee on Election Reform.

The question propounded is:

"May the Concord City Council be expanded beyond its present five members?"

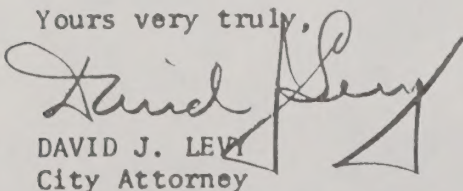
Existing Government Code Section 36501 provides in part that "The government of a general law city is vested in: "(a) A city council of five members."

However, the Government Code makes provision for the establishment of five, seven or nine districts by an ordinance approved by the voters. The ordinance can either provide for the election of councilmen from a specific district only by vote of the voters in that district or by election from districts but requiring vote by the electorate of the entire city (Government Code Section 34871-38872).

Government Code Section 36501 provides for a five member council when the voters have not acted by ordinance. Section 34872 permits a general law city to have five, seven or nine members when ordained by the electorate.

Therefore, in response to the above question, it is our opinion that the council membership may be expanded to seven or nine members provided that the necessary ordinance is approved by the electorate.

Yours very truly,

  
 DAVID J. LEVI  
 City Attorney

cc: City Manager  
 City Clerk  
 Stephan C. Williams, Attorney at Law

DJL/mm

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